

**CONTRACT #13**  
**RFS # 331.50-01111**  
**FA # Pending**

**Education**

**VENDOR:**  
**The New Teacher Project**

RECEIVED

SEP 03 2010

FISCAL REVIEW



STATE OF TENNESSEE  
DEPARTMENT OF EDUCATION  
6th FLOOR, ANDREW JOHNSON TOWER  
710 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-0375

PHIL BREDESEN  
GOVERNOR

TIMOTHY K. WEBB, Ed.D.  
COMMISSIONER

Date: September 3, 2010  
To: Mr. James White, Fiscal Review Committee  
From: Timothy K. Webb, Commissioner *Timothy K. Webb*  
Subject: Request to appear before Fiscal Review Committee regarding Request for Non-competitive Contract RFS #33150-01111

Please consider the enclosed information regarding a request for Non-competitive Contract between the Department of Education and The New Teacher Project (TNTP).

The proposed contract will allow the vendor to assist the Tennessee Department of Education in the recruitment, training, and staffing low performing schools, a service needed to assist the state in delivering on its TN First to the Top goals as measured by impact on student performance. Specifically, TNTP will identify, train and staff Achievement School District (ASD) and other High priority schools with teachers in the Core Content areas of Math, Science, English and Social Studies, as well as English Language Learner (ELL), Foreign Language, and Special Education and other academic areas.

The State surveyed several agencies capable of providing highly qualified and potentially highly effective certified teachers into hard-to-staff schools, and found that TNTP trained teachers had an impressive record of outperforming other teachers. TNTP has been staffing low performing schools in Memphis since 2006 and Nashville since 2009. Furthermore, TNTP was specifically named in the grant to provide these services.

Although the Race to the Top (RTTT) grant was announced in early April, work on this contract could not begin until the budget was approved. The RTTT budget was approved by the USDOE on July 1, 2010, at which time contract negotiations began. There have been extensive discussions into the various aspects of the services that will be provided under the contract, and has caused a necessary delay in finalizing the scope of work and payment methodology.

Thank you for your assistance in obtaining the necessary approval of the request.

CC: Ms. Gwendolyn Watson  
Ms. Rachel Woods  
Mr. Bruce Opie  
Ms. Kristen McKeever

**Supplemental Documentation Required for  
Fiscal Review Committee**

<b>*Contact Name:</b>	Gwendolyn Watson	<b>*Contact Phone:</b>	(615) 532-4710
<b>*Original Contract Number:</b>	To be assigned by OCR	<b>*Original RFS Number:</b>	33150-01111
<b>Edison Contract Number: (if applicable)</b>	To be assigned.	<b>Edison RFS Number: (if applicable)</b>	NA
<b>*Original Contract Begin Date:</b>	October 1, 2010	<b>*Current End Date:</b>	September 30, 2010
<b>Current Request Amendment Number: (if applicable)</b>			
<b>Proposed Amendment Effective Date: (if applicable)</b>			
<b>*Department Submitting:</b>		Department of Education	
<b>*Division:</b>		Achievement School District	
<b>*Date Submitted:</b>		9/3/10	
<b>*Submitted Within Sixty (60) days:</b>		No	
<i>If not, explain:</i>		Although the Race to the Top (RTTT) grant was announced in early April, work on this contract could not begin until the budget was approved. The RTTT budget was approved by the USDOE on July 1, 2010, at which time contract negotiations began. There have been extensive discussions into the various aspects of the services that will be provided under the contract, and has caused a necessary delay in finalizing the scope of work and payment methodology.	
<b>*Contract Vendor Name:</b>		The New Teacher Program	
<b>*Current Maximum Liability:</b>		\$5,083,360.00	
<b>*Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)</b>			
<b>FY: 2011</b>	<b>FY:2012</b>	<b>FY:2013</b>	<b>FY:</b>
\$2,178,070.00	\$2,462,850.00	\$452,440.00	\$
<b>*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)</b>			
<b>FY:</b>	<b>FY:</b>	<b>FY:</b>	<b>FY:</b>
\$	\$	\$	\$
<b>IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:</b>			

**Supplemental Documentation Required for**  
**Fiscal Review Committee**

IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:				
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:				
*Contract Funding Source/Amount:	State:	\$0.00	Federal:	Federal RTTT Funds - \$5,093,360.00
Interdepartmental:			Other:	
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
Method of Original Award: <i>(if applicable)</i>				
*What were the projected costs of the service for the entire term of the contract prior to contract award?		N/A		

## Supplemental Documentation Required for Fiscal Review Committee

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

**Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures. \*If maximum number of teachers placed.**

Deliverable description:	FY: 2011	FY: 2012	FY: 2013	FY:	FY:
Teaching Fellows Program Launch; A.4.	\$565,844.00				
Recruitment Campaign; A.5.	\$330,075.00	\$715,241.00			
Pre-Service Institute A.8.		\$330,000.00	\$340,000.00		
Tracking System; A.11.	\$165,038.00				
Program Assessment/Candidate Progress A.12.		\$858,289.00			
Licensure Program Launch A.13.	\$330,075.00				
Licensure Program Curriculum A.14.	\$165,038.00				
Statewide Policy Analysis; A.18. - A.19.	\$400,000.00				
Recruitment/Identification of Participating Schools A.23		\$112,440.00			
Performance Management & Staffing Workshops A.24.		\$112,440.00			
School Analysis A.25		\$112,440.00			
School Observation & Teacher Professional Development Plans A.26.			\$112,440.00		
Stipends	\$222,000	\$222,000			
Total	\$2,178,070.00	\$2,462,850.00	\$452,440.00		

**Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable. \*Total savings based on maximum number of teachers placed.**

Effective October 30, 2009

**Supplemental Documentation Required for  
Fiscal Review Committee**

Deliverable description:	FY: 2011	FY: 2012	FY: 2013	FY: 2014	FY:
Proposed Cost	\$2,619,930.00	\$1,698,400.00	\$3,807,228.00		
<p><b>Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.</b></p>					
Proposed Vendor Cost: (name of vendor)	FY: 2011	FY:	FY:	FY: 2014	FY:
Vendor (Proposal Budget)					
Other Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY: 2014	FY:

## Non-Competitive Contract Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.

Route a completed request, as one file in PDF format, via e-mail attachment sent to: [Agsprs.Agsprs@state.tn.us](mailto:Agsprs.Agsprs@state.tn.us)

APPROVED


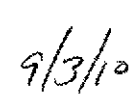
COMMISSIONER OF FINANCE & ADMINISTRATION

The proposed contract shall not begin before the date that this request is approved.

<b>Request Tracking #</b>	33150-01111		
<b>Procuring Agency</b>	Department of Education (TDOE)		
<b>Proposed Contractor</b>	The New Teacher Project (TNTP)		
<b>Proposed Contract Period</b> (with ALL options to extend exercised)	48 months		
<b>Maximum Contract Cost</b> (with ALL options to extend exercised)	\$10,500,000.00		
<b>Office for Information Resources Endorsement</b> (information technology service; N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached	
<b>eHealth Initiative Support</b> (health-related professional, pharmaceutical, laboratory, or imaging service)	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached	
<b>Human Resources Support</b> (state employee training service)	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached	
<b>Procuring Agency Previously Procured the Subject Service</b> <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, it was procured by... <input type="checkbox"/> RFP <input type="checkbox"/> Another Competitive Method <input type="checkbox"/> Non-Competitive Negotiation			
<b>Service Description</b> (brief summary only— do NOT restate the proposed scope of service)  TNTP will identify, train, and staff the Achievement School District (ASD) and other high priority schools with teachers in the core content areas of Math, Science, English and Social Studies, as well as ELL and Special Education. These teachers will be specifically trained to work in low performing school.  TNTP will create innovative programs that bring high-quality teachers into hard-to-staff schools to improve student achievement. These programs will focus on attracting and developing excellent new teachers by using an integrated approach to the recruitment, selection, training, and continued development of new teachers.  TNTP will work hand-in-hand with school districts and school leaders to staff the lowest-performing schools with excellent teachers by training school principals to hire teachers more effectively and establishing model staffing initiatives that ensure the lowest-performing schools have access to the highest-quality teachers .  TNTP will provide pre-service training and professional development to low performing schools faculty. They will recruit, select, and train school's faculty and Tailor the Teaching for Results series to meet state standards and specific curricular approaches used by the district. The training will focus on the certification of teachers for school			

<b>Request Tracking #</b>	33150-01111
districts' highest-need subject areas.	
<b>Explanation of Need for or Requirement Placed on the State to Acquire the Service</b>  TDOE has the primary role and responsibility to effectively implement and provide for the implementation of the First To the Top Grant in a comprehensive and coherent manner that results in increased student achievement. As such, TDOE will need to employ and implement high-quality alternative route to certification programs to bring new streams of accomplished individuals into hard-to-staff urban schools. TDOE will need to engage and monitor external non-profit service providers for effectiveness in providing structure and removing the barrier that are present in Tennessee's lowest-achievement schools.	
<b>Name &amp; Address of the Contractor's Principal Owner(s)</b> <i>(NOT required for a TN state education institution)</i>  Ariela Rozman, Chief Executive Officer 186 Joralemon St., Suite 300 Brooklyn, NY 11201	
<b>Evidence Contractor's Experience &amp; Length Of Experience Providing the Service</b>  The New Teacher Project (TNTP) is a national nonprofit organization founded by teachers in 1997. TNTP is dedicated to closing the achievement gap by ensuring that high-need students get outstanding teachers. Since its inception, TNTP has trained or hired approximately 37,000 teachers, benefiting an estimated 5.9 million students nationwide. It has established more than 75 programs and initiatives in 31 states and published four seminal studies on urban teacher hiring and school staffing. TNTP has successfully assisted several of our largest states and cities (including but not limited to Washington, California, Baltimore, Chicago, New York) in staffing schools and implementing procedures which led to higher achievement scores in their low performing schools.	
<b>Efforts to Identify Reasonable, Competitive, Procurement Alternatives</b>  The Department conducted research into non-profit organizations that have expertise in human capital and new school formation specifically in low-achievement schools. The agency must possess a proven track record of reform in recruiting highly effective teachers or principals, working with districts and states on revamping human capital systems, creating and expanding high-quality charter schools, and paving the way for dramatic improvement in student outcome. The TNTP was one of two agencies that has the proven experience, knowledge and on the ground assistance background to meet the needs of the Tennessee Department of Education and the Department is requesting to contract with both of them.	
<b>Justification – specifically explain why non-competitive negotiation is in the best interest of the state</b>  The New Teacher Project (TNTP) is a national nonprofit dedicated to closing the achievement gap by ensuring that high-need students get outstanding teachers. Founded by teachers in 1997, TNTP partners with school districts and states to implement scalable responses to their most acute teacher quality challenges. TNTP take a multi-pronged approach to addressing our clients' most pressing challenges. TNTP helps improve low-performing schools achievement scores by implementing training in the core areas of activity including teacher recruitment, school staffing initiatives, new teacher training and certification programs, and policy research and advocacy.  TNTP helps improve student achievement scores by establishing innovative programs that recruit, select and train outstanding teachers. The agency is nationally recognized for its expertise in the development of high-quality alternate route to teacher certification programs for urban school systems. They also work with states to create programs that serve multiple school districts and with charter schools that serve high-poverty populations.  TNTP conducts targeted research to identify the obstacles that school systems face to hiring the best teachers possible and quantify the impact of these obstacles on schools, students and teachers. This data-driven approach will enable the TDOE to talk plainly and objectively about the problems facing our low performing schools, to argue for	



<b>Request Tracking #</b>	33150-01111
<p>key reforms, and to provide effective tools and realistic recommendations to district officials, legislators, and policy-makers.</p> <p>TNTP train principals to take a strategic approach to staffing that allows schools to attract and hire the best teachers possible. Through their Model Staffing Initiatives, effective teacher hiring practices are developed and model strategies are put in place that can ultimately be rolled out to all schools in the district. With their research-based instructional practices, teachers are empowered to achieve maximum impact on student achievement.</p> <p>The approach employed by TNTP will provide Tennessee with the means to organize and revamp low-performing schools. Specifically, these techniques will ensure that each school is adequately staffed with the most effective teachers to effectively reach the goals set, and ultimately improve the achievement scores. They have a proven track record of training effective teachers. In 2009, the Teaching Fellows programs increased the average undergraduate GPA of the individuals hired to 3.4. Surveys revealed that 92 percent of principals would hire TNTP-recruited teachers again. Survey also reflects that 87 percent average second-year teacher retention rate for these candidates surpass national estimates for beginning teachers in high-poverty areas. Such practices are now used in 4 of the 5 largest states.</p> <p>TNTP is uniquely positioned to provide consulting services and staffing assistance to help the Tennessee Department of Education set up and implement effective programs that will enhance student performance in struggling schools.</p>	
<p><b>Agency Head Signature and Date</b> <i>(MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances)</i></p> <p>   </p>	

<b>Begin Date</b> October 1, 2010	<b>End Date</b> September 30, 2012	<b>Agency Tracking #</b> 33150-01111	<b>Edison ID</b>
<b>Contractor Legal Entity Name</b> The New Teacher Project			<b>Registration ID</b>
<b>Subrecipient or Vendor</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor		<b>CFDA #</b> 84.395	<b>FEIN or SSN</b> 13-3850158
<b>Service Caption</b> (one line only) Identify, train, and staff Achievemnet School District and other High priority schools with teachers in core content areas.			
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>
2011	\$0.00	\$2,178,070.00	\$0.00
2012	\$0.00	\$2,462,850.00	\$0.00
2013	\$0.00	\$452,440.00	\$0.00
<b>TOTAL:</b>	<b>\$0.00</b>	<b>\$5,093,360.00</b>	<b>\$0.00</b>
<b>Other</b> \$0.00			
<b>TOTAL Contract Amount</b> \$5,093,360.00			
<b>American Recovery and Reinvestment Act (ARRA) Funding:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
<b>Ownership/Control</b>			
<input type="checkbox"/> African American <input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Person w/Disability <input type="checkbox"/> Small Business <input type="checkbox"/> Government <input checked="" type="checkbox"/> NOT Minority/Disadvantaged <input type="checkbox"/> Other:			
<b>Selection Method &amp; Process Summary</b> (mark the correct response to confirm the associated summary)			
<input type="checkbox"/> RFP		The procurement process was completed in accordance with the approved RFP document and associated regulations.	
<input type="checkbox"/> Competitive Negotiation		The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.	
<input type="checkbox"/> Alternative Competitive Method		The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.	
<input checked="" type="checkbox"/> Non-Competitive Negotiation		The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.	
<input type="checkbox"/> Other		The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> parties in a predetermined "class."	
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.		<b>OCR USE - FA</b>	
<b>Speed Code</b> ED00000668	<b>Account Code</b> 70803000		

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF EDUCATION  
AND  
THE NEW TEACHER PROJECT**

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and The New Teacher Project, hereinafter referred to as the "Contractor," is for the provision of identifying, training and staffing Achievement School District (ASD) and other High priority schools with teachers in the Core Content areas of Math, Science, English and Social Studies, as well as English Language Learner (ELL) and Special Education and other academic areas, as further defined in the "SCOPE OF SERVICES."

The Contractor is a non-profit corporation.

Contractor Federal Employer Identification, Social Security, or Edison Registration ID # 13-3850158

Contractor Place of Incorporation or Organization: Delaware

**A. SCOPE OF SERVICES:**

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

**A.2. Definitions:**

- a. Achievement School District (ASD) – An organizational unit of the State established for the purpose of providing oversight for the operation of the total program for individual schools or local education agencies that have reached a specified point in Tennessee's School/LEA accountability process. The Commissioner of Education has the authority to contract with one or more outside entities to manage the day-to-day operations of a school placed in the ASD, including, but not limited to, providing direct services to students.
- b. ASD Eligible Schools - Schools that have reached Restructuring 2 (the fifth year of improvement status) pursuant to the State's accountability system or at any time a Title I school meets the U.S. Department of Education's definition of "persistently lowest achieving schools", the State may remove the school from the jurisdiction of the local education agency and place the school under the jurisdiction of the ASD established by the Commissioner of Education.
- c. Alternate Route Teacher – Individual with at least a bachelor's degree who is seeking an alternative route to teacher certification without necessarily having to go back to college and complete a college, campus-based teacher education program.
- d. Focus Schools - Tier II schools in School Improvement I and II.
- e. High Priority Schools - Schools that failed to make Average Yearly Progress (AYP) after two years.
- f. Persistently Lowest Achieving Schools-
  - (1) Tier I – The lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring in the State or the five lowest-achieving such schools (whichever number of schools is greater).
  - (2) Tier II – Any secondary school is among the lowest-achieving five percent of secondary schools or the five lowest-achieving secondary schools in the State that are eligible for, but do not receive Title I funds or is a high school that has had a graduation rate below 60 percent over a number of years.
  - (3) Tier III – Any Title I school in improvement, corrective action, or restructuring that is not a Tier I school.
- g. Renewal Schools – Tier II Schools in Corrective Action and Restructuring I.

- h. TeacherTrack and CertificationTrack – Contractor’s proprietary web based software that tracks applicants from point of contact through certification
- i. Teaching Fellow – Professional individual who has been selected to enter the program and be trained to become the primary instructor at an elementary or secondary school.
- j. Title I Schools - schools with at least 40% of students enroll in the free and reduced lunch program.

- A.3. **Annual Work Plan.** The Contractor shall prepare, for State approval, a detailed Work Plan for each deliverable (A.4-A.23) that incorporates the development of schedules for the activities of this contract. The Work Plan shall include the steps for all project work tasks and deliverables including initiation and completion dates, task responsibilities to avoid any disruption of services, requirements or deliverables to the State.

The Annual Work Plan will outline by task and due date each activity to be performed under this contract. The Annual Work Plan must describe all activities related to the development and implementation of each item listed in this Scope, including each stage of production. It shall provide due dates for each activity and indicate areas of responsibility for the Contractor and the State. The Annual Work Plan will serve as a monitoring document to be used by the State to assure timely completion of tasks as scheduled.

The initial Annual Work Plan shall be due to the State within thirty (30) days of the execution of this contract. Subsequent Annual Work Plans will be due no later than June 1 prior to the effective fiscal year.

#### **Deliverables A.4-A.23**

##### **Teaching Fellows Program and Licensure**

- A.4. The Contractor shall launch Teaching Fellows programs to serve Memphis and Nashville low achievement schools and other High priority schools; Develop and distribute high level Teaching Fellows Program timeline which includes milestones for recruitment, selection and training events and notify stakeholders, such as LEA's Superintendent, Chief Academic Officer and Director of Human Resources, of key dates; Draft Internet recruitment plan; Develop internet postings for Teaching Fellows Program; Identify client leads in the school districts to serve as liaisons for the program.
- A.5. The Contractor shall design and implement a recruitment campaign to attract high quality applicants. Recruitment activities will include creating recruitment materials; advertisements; training of part-time program recruiters; and launching interactive web-site for the program.
- A.6. The Contractor shall increase its Teaching Fellow pipeline by 80-100 alternate route teachers (approximately 50-60 in Memphis and 30-40 in Nashville) each year, for a total of 160-200 new teachers. Teachers are to be available for hire by July 1 of each year. The Contractor will endeavor to recruit teachers with a first priority given to the Core Content areas such as Math, Science, English and Social Studies, as well as ELL and Special Education, and a secondary priority to Foreign Language and other academic areas based on identified staffing needs in each individual school, annually, or as vacancies appear in these content areas.
- A.7. The Contractor shall recruit, select, train and work with school leaders and the State to secure placements for 80-100 highly effective and potentially highly qualified Teaching Fellows each year in High Priority Schools, including Title I schools, in Tennessee, identified by the State. The Contractor shall conduct pre- and post-program evaluations and share results with the State.
- A.8. The Contractor shall develop and implement a five to six week institute over the summer to train the cohort of new Fellows.

- A.9. The Contractor shall provide ongoing support for the Fellows in their first year of teaching by facilitating and encouraging connections to local and district resources and support services. The Contractor will provide individual support to Fellows on how to identify needs and proactively seek out and utilize available resources and support through school, district, or other public resources. The Contractor will not provide direct support beyond the first year once participants complete certification; the goal will be for participants to know where to seek out school or district resources on their own after the first year.
- A.10. The Contractor and the State shall work in good faith to secure assurances, in writing, from each participating Local Education Agency (LEA) for priority placement of the Contractor's Teaching Fellows in high priority schools in the order of prioritized needs beginning with ASD, ASD-Eligible, Renewal, Focus, Title I, and Non-Title I High Priority schools, and all other Title I schools.
- A.11. The Contractor shall launch a technological tracking systems (TeacherTrack and CertificationTrack) that maintain records of progress and contact with all fellows throughout the program.
- A.12. The Contractor shall provide the ASD Deputy Superintendent with a copy of the program assessment system and ongoing documentation and tracking of candidates as they progress towards licensure.
- A.13. The Contractor shall implement *Teaching for Results*, part of an innovative certification program that helps these alternate route teachers maximize their impact on student achievement by focusing on their ability to translate their existing content knowledge into effective classroom practice. Teaching for Results is the primary coursework that Fellows take and successful completion is one of the requirements for Fellows to be recommended for licensure. The State and the Contractor agree that Contractor's offering of the certification component is dependent on State program approval. The Contractor shall develop and submit Certification Program Design through the State approved Transitional License process to secure certification for fellows.
- A.14. The Contractor shall provide ASD Superintendent with a copy of curriculum for licensure program.
- A.15. The Contractor shall recruit two cohorts of Teaching Fellows and offer the licensure program to cohort one of Teaching Fellows, during this contract period. In the event this Contract is not extended per the provisions in B.2, the parties will negotiate in good faith a separate agreement to offer the licensure program to cohort two of the Teaching Fellows recruited under this Contract. Cohort one will began service to schools beginning with the 2011-2012 and the second cohort will began service to the schools beginning with the 2012-13 school year. The licensure process occurs with the second year of the cohort's service.
- A.16. The Contractor shall use LEA/School teacher annual evaluation results, as outlined in RTTT, of Fellows to identify areas of need and use this data to inform the training program for the incoming fellows. The evaluation results will not personally identifiable data.
- A.17. The Contractor shall provide an annual progress update of its work on the above areas in September of each year to State and ASD leadership.

#### **Policy Analysis**

- A.18. The Contractor shall conduct a statewide policy analysis to assess current LEA readiness to implement Race to the Top (RTTT) reforms and to develop tools and processes for the State to use in supporting LEAs that are not yet at a stage of full readiness. The analysis will include: developing a balanced scorecard of readiness indicators and developing a set of tools and processes for the state to use in supporting LEAs to reach full readiness. The Contractor will

begin the analysis in December 2010 and complete the work by May 2011, at which time the Contractor will submit a full report to the State's ASD Deputy Superintendent detailing the readiness of the LEAs to implement the state Race To The Top reforms.

- A.19. The Contractor shall develop a survey to gather data from each LEA on each of the readiness indicators, conduct a thorough analysis of Section D of Tennessee's RTTT application, and a mapping of the probable technical, logistical, and human capacity required to implement each component and provide a detailed review of implementation plans for approximately twenty partner districts identified by the state and analysis of gaps in each.
- A.20. The Contractor shall work with State to identify three LEAs to participate in initial interviews and field test the readiness survey.
- A.21. The Contractor shall request State assistance to encourage participating LEAs to meet submission timelines set by Contractor and respond promptly to appropriate request in a timely manner.

#### **Performance Management**

- A.12. The Contractor shall provide training and coaching for up to 10 school leaders in schools eligible to enter the ASD, renewal schools and other high priority schools to help them implement an effective performance management model, as identified in A. 20. – A.23 below, for their teachers for 2011-2012.
- A.23. Contractor will work with State and/or LEA to identify up to 10 school leaders to participate in the program and implement a benchmarking study of these schools for 2011-2012.
- A.24. Contractor will conduct at least 2 performance management workshops and 2 staffing workshops for the group of schools.
- A.25. Contractor will complete an analysis of teacher goal attainment; evaluation and tenure decisions in the schools.
- A.26. Contractor will provide schools with a complete plan for increased observation and feedback of a targeted subset of teachers in coming year as well as a plan for aligning professional development content to participating schools' talent management goals.

#### **B. CONTRACT PERIOD:**

- B.1. Contract Period. This Contract shall be effective for the period beginning October 1, 2010, and ending on September 30, 2012. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than four (4) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided in the original Contract.

#### **C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed five million ninety-three thousand three hundred sixty dollars and no cents

(\$5,093,360.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. **Compensation Firm.** The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

<b>Service Description</b>	<b>Amount (per compensable increment)</b>
Teaching Fellows Program Launch; A.4 (Year 1)	\$565,844.00/ Launch
Recruitment Campaign; A.5	
Year 1	\$330,075.00/ Campaign
Year 2	\$715,241.00 / Campaign
Pre-Service Institute; A.8	
Year 2	\$3,300.00 / Fellow Trained (100 fellows)
Year 3	\$3,400.00 / Fellow Trained (100 fellows)
Tracking System; A.11 (Year 1)	\$165,038.00
Program Assessment/Candidate Progress; A.12 (Year 2)	\$858,289.00/ Report
Licensure Program Launch; A.13 (Year 1)	\$330,075.00/ Launch
Licensure Program Curriculum; A.14 (Year 1)	\$165,038.00
Statewide Policy Analysis; A.18 – A.19. (Year 1)	\$400,000.00 / Report
Recruitment/Identification of Participating Schools; A.23. (Year 2)	\$112,440.00
Performance Management & Staffing Workshops; A.24. (Year 2)	\$28,110.00 / Workshop (4 workshops)
School Analyses; A.25. (Year 2)	\$11,244.00 / School (10 schools)

School Observation & Teacher Professional Development Plans; A.26. (Year 3)	\$11,244.00 / School (10 schools)
Stipends; E.15	
Year 1	\$2,220.00 / Teaching Fellow (100 fellows)
Year 2	\$2,220.00 / Teaching Fellow (100 fellows)

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Elfreda Tyler, ASD Finance and Operations Manager  
Tennessee Department of Education  
Andrew Johnson Tower, 5<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243

a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

- (1) Invoice Number (assigned by the Contractor)
- (2) Invoice Date
- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: Tennessee Department of Education & Achievement  
School District Division
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison  
Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:
  - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
  - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
  - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
  - iv. Amount Due by Service
  - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and



- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
  - a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
  - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Personnel, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Personnel, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least forty-five (45) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to terminate the Contract and withhold payments in excess of fair compensation for completed services.
- a. The State will provide notification of termination for cause in writing. This notice will: (1) specify in reasonable detail the nature of the breach; (2) provide the Contractor with an opportunity to cure, which must be requested in writing no less than 10 days from the date of the Termination Notice; and (3) shall specify the effective date of termination in the event the Contractor fails to correct the breach. The Contractor must present the State with a written request detailing the efforts it will take to resolve the problem and the time period for such resolution. This opportunity to "cure" shall not apply to circumstances in which the Contractor intentionally withholds its services or otherwise refuses to perform. The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, or if a cure period would cause a delay that would impair the effectiveness of State operations. In circumstances where an opportunity to cure is not available, termination will be effective immediately.
  - b. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

- D.13. **Strict Performance.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. **Independent Contractor.** The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.15. **State Liability.** The State shall have no liability except as specifically provided in this Contract.
- D.16. **Force Majeure.** The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. **State and Federal Compliance.** The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.19. **Completeness.** This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. **Severability.** If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. **Conflicting Terms and Conditions.** Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Gwendolyn L. Watson, Deputy Superintendent  
 Achievement School District  
 Tennessee Department of Education  
 710 James Robertson Parkway  
 Andrew Johnson Towers 5th Floor  
 Nashville, TN 37243  
 Email: gwendolyn.watson@tn.gov  
 Telephone # 615-532-4710  
 FAX # 615-253-4177

The Contractor:

Ariela Rozman, Chief Executive Officer  
 The New Teacher Project  
 186 Joralemon St., Suite 300  
 Brooklyn, NY 11201  
 Email: arozman@tntp.org  
 Telephone # 718-233-2800  
 FAX # 718-643-9202

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired

member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

- E.5. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.6. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
  - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.7. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Tennessee Department of Education Commission, for such decision and non-competitive procurement.

- E.8. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.10. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.11. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.12. Federal Economic Stimulus Funding. This Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

The Contractor (and any subcontractor) shall comply with the following:

- a. Federal Grant Award Documents, as applicable.

- b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at [www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/), as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at [www.whitehouse.gov/omb/financial\\_offm\\_circulars/](http://www.whitehouse.gov/omb/financial_offm_circulars/).
- c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at [www.tnrecovery.gov](http://www.tnrecovery.gov)).
- d. The Recovery Act, including but not limited to the following sections of that Act:
  - (1) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
  - (2) Section 1512 – Reporting and Registration Requirements. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.
  - (3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:
    - i. gross mismanagement,
    - ii. gross waste,
    - iii. substantial and specific danger to public health or safety,
    - iv. abuse of authority, or
    - v. violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

**Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

**Requirement to Post Notice of Rights and Remedies:** The Contractor and any subcontractor shall post notice of the rights and remedies as required under Section 1553. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at [www.recovery.gov](http://www.recovery.gov), for specific requirements of this section and prescribed language for the notices.)

- (4) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:
  - i. to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and



- ii. to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.
- (5) **Section 1514 – Inspector General Reviews.** Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.
- (6) **Section 1515 – Access of Offices of Inspector General to Certain Records and Employers.** With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:
  - i. to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and
  - ii. to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.
- (7) **Section 1606 – Wage Rate Requirements.** All laborers and mechanics employed by pursuant to this Contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.
 

For purposes of this Contract, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.
- (8) **Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods.** None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
- e. The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.
- f. If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.12., "Federal Economic Stimulus Funding."

- E.13. **FERPA Compliance.** The State and Contractor shall comply with the Family Education Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) (FERPA) and its accompanying regulations (34 C.F.R. 99). Contractor warrants that it is familiar with requirements of FERPA and its accompanying regulations and that it will comply with all applicable FERPA requirements in the performance of its duties in this contract. Contractor agrees to cooperate with the State as required by FERPA and its regulations in the performance of its duties in this contract. Contractor agrees to maintain the confidentiality of all education records and student information and use such records and information for the exclusive purpose of performing its duties in this contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the Authorization and Acknowledgement of Compliance document at Attachment B.
- E.14. **Recruitment.** Individuals recruited and trained pursuant to this Contract will not be employed by the Contractor. School districts, and not the Contractor, are responsible for the final hiring and termination decisions for all applicants for the program(s) described in this Contract and for all candidates for teaching positions, and the school districts will be the employer of all individuals selected for teaching positions. The school districts are responsible for managing the appeals process, if any, and making decisions for candidates who appeal the selection decision. The Contractor is not liable for any actions brought by third parties as a result of the selection decisions.
- E.15. **Stipends.** The Contractor will pay a one-time transitional living stipend to each alternate route program participant in an amount no less than \$2,000.00 and not to exceed \$2,300.00. The school districts will oversee and manage the distribution of the stipends to program participants during the pre-service training period of the program. Stipend funds will be provided by the State to the Contractor and the Contractor will reimburse school districts for said stipends.
- E.16. **Intellectual Property Rights**
- Ownership by the Contractor.* Title to and ownership of TeacherTrack and Certification Track (the "Systems"), including all modifications, enhancements, upgrades, extensions, other changes to, and derivative works of, TeacherTrack and Certification Track, made by or on behalf of the Contractor, as well as all work products and materials created by or on behalf of the Contractor for the State or school districts or otherwise arising out of the performance of the services hereunder, whether partial or complete (collectively referred to as the "Work"), shall be and remain solely in the Contractor. The State agrees that the Systems and all Work created by the Contractor will not be transferred, shared, licensed or sold by the State to any other school district or entity, or disclosed to any third party, under any circumstances without the prior written consent of the Contractor. The Contractor shall be considered the author of the Systems and the Work for purposes of copyright and only the Contractor shall have the right to copyright the same. Additionally, the Contractor retains all rights, title and interest in and to all processes, methods, systems, layouts and information (collectively the "TNTP Tools") used in creating the Systems and the Work. Nothing in this Contract shall be deemed to grant any ownership rights in the Work, Systems or the TNTP Tools to the State, and except as expressly granted to the State hereunder, the State shall have no right or license with respect thereto.
- Ownership by the State.* As between the State and the Contractor, the State owns all participant data incorporated in the Work. The State agrees that the Contractor may use such data to perform its obligations hereunder (including the incorporation thereof into the System and the Work) and may use such data on an anonymous, aggregated basis for its other legitimate business purposes. The State acknowledges that, for such purposes, the Contractor may identify the program from which the data originated.
- E.17. **Residual Rights.** Nothing in this Contract shall be deemed to prohibit the Contractor from using, or to grant to the State any right, title or interest in, the accumulated knowledge, expertise, and

general know-how of the Contractor, whether developed before or after the commencement of this Contract, including without limitation, any systems, layout, or processes to develop works for others that are similar to the services provided hereunder.

- E.18. The Contract shall receive payment of an invoice within 6-8 weeks of receiving an State approved invoice with appropriate documentation as listed in C.5.

**IN WITNESS WHEREOF,**

**THE NEW TEACHER PROJECT:**

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**CONTRACTOR SIGNATURE**

**DATE**

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**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**TENNESSEE DEPARTMENT OF EDUCATION:**

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**TIMOTHY K. WEBB, COMMISSIONER**

**DATE**

**ATTACHMENT A****ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>FEDERAL EMPLOYER IDENTIFICATION NUMBER:</b> (or Social Security Number)	

**The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.**

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**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**

**ATTACHMENT B****AUTHORIZATION AND ACKNOWLEDGEMENT OF COMPLIANCE**

**Whereas**, State has contracted with The New Teacher Project on October 1, 2010 through September 30, 2012 (33150-01111), for identifying, training and staffing Achievement School District (ASD) and other High priority schools with teachers in the Core Content areas of Math, Science, English and Social Studies, as well as ELL and Special Education, and

**Whereas**, The above referenced contract may require the disclosure by the State to The New Teacher Project of certain personally identifiable student information that is confidential under the Family Educational Rights and Privacy Act (FERPA), and

**Whereas**, 34 C.F.R. 99.31 and 34 C.F.R. 99.35, authorize an educational agency or institution to disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 to authorized representatives of State and local educational authorities in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

Therefore, the State and The New Teacher Project hereby agree as follows:

1. The New Teacher Project is authorized to maintain certain student information for the sole purpose of compliance with the requirements of the above referenced contract. This student information may include: name, social security number, achievement data, address, phone number, and parent/guardian name.
2. The New Teacher Project as authorized representative of State for the sole purpose of complying with the requirements of the above contract agrees to comply fully with FERPA by maintaining the confidentiality of all student information and to use the information solely to fulfill its obligations under the above referenced contract with the state.
3. The New Teacher Project agrees to destroy all confidential student information when it is no longer needed for purposes of fulfilling its obligations under the above referenced contract.

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State

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Date

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The New Teacher Project

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Date